

**THIS DECISION HAS BEEN APPEALED. THE
FOLLOWING IS THE RELATED SOAH DECISION NUMBER:**

SOAH DOCKET NO. 453-05-1639.M5

MDR Tracking Number: M5-04-1381-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution- General, 133.307 titled Medical Dispute Resolution of a Medical Fee Dispute, and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. This dispute was received on January 16, 2004.

In accordance with Rule 133.307 (d), requests for medical dispute resolution are considered timely if it is filed with the division no later than one (1) year after the date(s) of service in dispute. The Commission received the medical dispute resolution request on 01-16-04, therefore the following date(s) of service are not timely: 01-07-03 through 01-15-03.

The Division has reviewed the enclosed IRO decision and determined that **the requestor did not prevail** on the issues of medical necessity. The IRO agrees with the previous determination that the therapeutic procedures, neuromuscular re-education, office visits, kinetic activities, nerve conduction, and sensory nerve conduction from 01-16-03 through 05-28-03 **were not** medically necessary. Therefore, the requestor is not entitled to reimbursement of the IRO fee

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division.

On May 3, 2004, the Medical Review Division submitted a Notice to requestor to submit additional documentation necessary to support the charges and to challenge the reasons the respondent had denied reimbursement within 14 days of the requestor's receipt of the Notice.

The following table identifies the disputed services and Medical Review Division's rationale:

DOS	CPT CODE	EOB Denial Code	MAR\$ (Max. Allowable Reimbursement)	Reference	Rationale
02-03-03	99213-MP 97110 97530 97112	No EOB	\$48.00 x 1 \$35.00 \$35.00 x 2 \$35.00 x 3	1996 MFG, TWCC Rule 133.304	Review of the requestor and respondent's documentation revealed that neither party submitted copies of EOB's, however, review of the recon HCFA and/or EOB's reflected proof of submission. Therefore, CPT codes 99213-MP, 97530 and 97112 will be reviewed according to the 96 Fee Guideline. See Rationale below for outcome of CPT code 97110.
02-05-03	99213-MP 97110 97530 97112	No EOB	\$48.00 x 1 \$35.00 \$35.00 x 2 \$35.00 x 3	1996 MFG, TWCC Rule 133.304	Review of the requestor and respondent's documentation revealed that neither party submitted copies of EOB's, however, review of the recon HCFA and/or EOB's reflected proof of submission. Therefore, CPT codes 99213-MP, 97530 and 97112 will be reviewed according to the 96 Fee Guideline. See Rationale below for outcome of CPT code 97110.
02-10-03	99213-MP 97110 97530 97112	No EOB	\$48.00 x 1 \$35.00 \$35.00 x 2 \$35.00 x 3	1996 MFG, TWCC Rule 133.304	Review of the requestor and respondent's documentation revealed that neither party submitted copies of EOB's, however, review of the recon HCFA and/or EOB's reflected proof of submission. Therefore, CPT codes 99213-MP, 97530 and 97112 will be reviewed according to the 96 Fee Guideline. See Rationale below for outcome of CPT code 97110.
02-12-03	99213-MP 97110 97530 97112	No EOB	\$48.00 x 1 \$35.00 \$35.00 x 2 \$35.00 x 3	1996 MFG, TWCC Rule 133.304	Review of the requestor and respondent's documentation revealed that neither party submitted copies of EOB's, however, review of the recon HCFA and/or EOB's reflected proof of submission. Therefore, CPT codes 99213-MP, 97530 and 97112 will be reviewed according to the 96 Fee Guideline. See Rationale below for outcome of CPT code 97110.
03-03-03	99213 97112	No EOB	\$48.00 x 1 \$35.00 x 3	1996 MFG, TWCC Rule 133.304	Review of the requestor and respondent's documentation revealed that neither party submitted copies of EOB's, however, review of the recon HCFA and/or EOB's reflected proof of submission. Therefore, CPT code 97112 will be reviewed according to the 96 Fee Guideline.
TOTAL		The requestor is entitled to reimbursement of \$ 1045.00			

CPT code 97110 - Recent review of disputes involving CPT Code 97110 by the Medical Dispute Resolution section as well as analysis from recent decisions of the State Office of Administrative Hearings indicate overall deficiencies in the adequacy of the documentation of this Code both with respect to the medical necessity of one-on-one therapy and documentation reflecting that these individual services were provided as billed. Moreover, the disputes indicate confusion regarding what constitutes "one-on-one." Therefore, consistent with the general obligation set forth in Section 413.016 of the Labor Code, the Medical Review Division has reviewed the matters in light all of the Commission requirements for proper documentation. The MRD declines to order payment because the SOAP notes do not clearly delineate exclusive one-on-one treatment nor did the requestor identify the severity of the injury to warrant exclusive one-to-one therapy. Additional reimbursement not recommended.

ORDER

Pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay for the unpaid medical fees in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this order. This Order is applicable for dates of service 02-03-03 through 03-03-03 in this dispute.

This Decision & Order is hereby issued this 30th day of September 2004.

Patricia Rodriguez
Medical Dispute Resolution Officer
Medical Review Division

April 30, 2004

Texas Workers' Compensation Commission
Medical Dispute Resolution
Fax: (512) 804-4868

REVISED REPORT Corrected services in dispute.

Re: Medical Dispute Resolution
MDR #: M5-04-1381-01
IRO Certificate No.: IRO 5055

Dear Ms. ____:

____ has performed an independent review of the medical records of the above-named case to determine medical necessity. In performing this review, ____ reviewed relevant medical records, any documents provided by the parties referenced above, and any documentation and written information submitted in support of the dispute.

I am the Secretary and General Counsel of ____ and I certify that the reviewing healthcare professional in this case has certified to our organization that there are no known conflicts of interest that exist between him and any of the treating physicians or other health care providers or any of the physicians or other health care providers who reviewed this case for determination prior to referral to the Independent Review Organization.

The independent review was performed by a matched peer with the treating health care provider. This case was reviewed by a physician who is certified in Chiropractic Medicine who is currently on the TWCC Approved Doctor List.

REVIEWER'S REPORT

Information Provided for Review:

Correspondence
H&P and office notes
Physical therapy notes
Nerve conduction test

Clinical History:

The records indicate that the patient was originally injured his head, back and right arm on ____ while working. He was taken to the hospital, treated, and discharged. On August 1, 1995, he was evaluated and treatment began utilizing manipulation, hot pack massage, and traction. Additional diagnostic testing in the form of MRI revealed some spinal stenosis, which was more degenerative in nature. Conservative care continued. The patient was placed at MMI on January 31, 1996 with a 13% whole person impairment rating. The records also indicate he underwent a myelogram, which revealed some disc bulging and degenerative condition. A lumbar laminectomy and decompression was recommended. However, apparently, this was never performed. There is indication in the records that the patient has not had treatment from 1998 through 2002.

Disputed Services:

Therapeutic procedures, neuromuscular re-education, office visits, kinetic activities, nerve conduction, sensory nerve conduction, during the period of 01/16/03 through 05/28/03.

Decision:

The reviewer agrees with the determination of the insurance carrier and is of the opinion that the treatment and services in dispute as stated above were not medically necessary in this case.

Rationale:

Sufficient clinical documentation was not provided to justify the intense treatment this patient received during this time period, which is approximately 7 1/2 years after his original injury date. There are no national treatment guidelines that will allow for this type of treatment of this frequency and intensity 7 1/2 years post injury date.

Sincerely,